

**UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT**  
THURGOOD MARSHALL UNITED STATES COURTHOUSE  
40 FOLEY SQUARE  
NEW YORK, NEW YORK 10007  
212- 857-8500

JOHN M. WALKER, JR.  
CHIEF JUDGE

ROSEANN B. MACKECHNIE  
CLERK OF COURT

**FOR IMMEDIATE RELEASE**  
**September 13, 2005**

**United State Court of Appeals for the Second Circuit**  
**Non-Argument Calendar**

As previously announced, the Court of Appeals will begin using a Non-Argument Calendar ("NAC") for cases that include a challenge to the denial of an asylum claim. This procedure has been adopted in an effort to meet the unprecedented backlog of cases caused by the flood of decisions coming from the Board of Immigration Appeals ("BIA"). Unless the Court of Appeals responds effectively to this backlog and to the current high rate of filings, the rights of litigants in these and all other cases will be subject to substantial delays.

The NAC system will begin the week of October 3, 2005. Starting with that week and continuing every week thereafter, asylum denial cases will be submitted without oral argument to one of four panels of three judges, randomly selected. After an initial start-up period, each panel will receive twelve cases, forty-eight cases for the Court as a whole. The panels will endeavor to dispose of these cases expeditiously, normally within three weeks after the case is submitted.

A case may be transferred to the Regular Argument Calendar ("RAC") for later assignment in the normal course during a week of argued cases. Counsel will be notified whenever a NAC case has been transferred to the RAC, and will also be notified when such a case is calendared for oral argument.

Counsel should be aware that a revised form C-A is currently in use, on which counsel for a petitioner must indicate whether or not the case involves a denial of an asylum claim and whether or not the petitioner is detained. Submission of an incomplete form C-A will result in dismissal of a petition. The revised form C-A is available on the Court's website under Clerk's Office, Forms.

In asylum cases filed hereafter and in asylum cases already filed but not yet briefed, any request for oral argument should be included in the party's brief, under a separate heading, and must not be made by motion. In asylum cases already filed and briefed, a request for oral argument may be made by motion.

The Court recognizes that the use of a NAC system will impose substantial burdens on counsel for the petitioner and the respondent (as well as on the Court). Scheduling orders will be issued promptly upon receipt of the certified record from the BIA, and the Court expects very soon to start receiving the certified record in electronic form within approximately thirty days after a petition for review is filed. As a result, counsel appearing in a large number of asylum cases will be receiving scheduling orders requiring the prompt filing of briefs in a large number of cases. Petitioners' counsel should understand that if an initial extension of thirty days has been given to file a petitioner's brief, the Court will look with extreme disfavor on any request for a subsequent extension. The filing of a request for additional time to file a brief, or for a settlement conference under the Court's CAMP program, will not postpone any applicable deadline. Cases in which a petitioner's brief has not been timely filed will be subject to dismissal as early as 15 days after the due date. Counsel who represent large numbers of petitioners should either arrange for sufficient assistance to comply with briefing schedules or limit their number of cases to an amount they can properly handle.

Cases in which a respondent's brief has not been timely filed will be submitted to a NAC panel, as early as 15 days following the due date, without awaiting the respondent's brief.

Currently, the petitioner and the Court receive a paper copy of the administrative record from the U.S. Attorney's Office and the Court issues the scheduling order. Within the next few weeks, the Court will receive its copy of the record directly from the Department of Justice in electronic form whereupon it will issue the scheduling order.

NAC cases will not be routinely scheduled for conferences with staff counsel, but any party may request a conference, and such a request will normally be granted. A request for a conference will not suspend the applicable briefing schedule.

A new local rule § 0.29 is applicable to NAC cases, and may be accessed on the Court's website. Further questions regarding these procedures should be addressed to the Clerk of Court.

John M. Walker, Jr.  
Chief Judge  
United States Court of Appeals  
For the Second Circuit